

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2019-091-00135A

Parcel No. 13-000-21-0449

Blake and Rachelle Henry,

Appellant,

vs.

Warren County Board of Review,

Appellee.

Introduction

The appeal came on for hearing before the Property Assessment Appeal Board (PAAB) on November 25, 2019. Blake and Rachelle Henry were self-represented. Deputy County Assessor Tim Konrad represents the Warren County Board of Review.

The Henrys own an agriculturally classified property located at 10055 150th Avenue, Indianola. Its January 1, 2019, assessment was set at \$238,200, allocated as \$3100 in land value and \$235,100 in agricultural dwelling value. (Ex. A).

The Henrys petitioned the Board of Review contending their assessment was not equitable as compared with the assessment of other like property and the property was assessed for more than the value authorized by law. Iowa Code § 441.37(1)(a)(1 & 2) (2019). The Board of Review denied the petition.

The Henrys then appealed to PAAB re-asserting that their property is inequitably assessed.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. PAAB is an agency and the provisions of the Administrative Procedure Act apply. § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). PAAB may

consider any grounds under Iowa Code section 441.37(1)(a) properly raised by the appellant following the provisions of section 441.37A(1)(b) and Iowa Admin. Code R. 701-126.2(2-4). New or additional evidence may be introduced. *Id.* PAAB considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct, but the taxpayer has the burden of proof. §§ 441.21(3); 441.37A(3)(a). The burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Compiano v. Bd. of Review of Polk Cnty.*, 771 N.W.2d 392, 396 (Iowa 2009) (citation omitted).

Findings of Fact

The subject property is a one-story modular home built in 2017. It has 1957 square feet of gross living area, an unfinished walk-out basement, a patio, an open porch, and a two-car attached garage. The improvements are listed in normal condition with a 3-10 Grade (good quality). The site is 2.23 acres. (Ex. A).

Rachelle Henry testified about the subject site and surrounding properties. She explained their site is a corner lot on a poorly maintained gravel road; there is a Mercy Clinic substation located on the north side of their site, with 24-hour access requirements; a Mid-American service pole on the west side of their site, also with access requirements; a Mid-American substation located across the street from the front of their home; and the neighbor to the south has numerous junk cars creating an additional eye-sore. Rachelle testified there is significant traffic on both gravel roads abutting their property, causing chronic dust. She believes 150th Avenue is one of the highest travelled gravel roads in Warren County. Because of the poor maintenance, she has had to repair two tires in the last several months. (Exs. 7-9). She asserts all of these factors negatively affect the value of their property. The Henrys submitted an aerial map and photographs corroborating Rachelle's testimony. (Exs. 1-6). The Henrys took ownership of the site in 2017, after it was split-off from a larger parcel owned by family members. Rachelle acknowledged the views and road conditions existed prior to them

building on the site. Tim Konrad also testified the previously noted items existed prior to Henrys purchasing the site and building their home. (Ex. H). Additionally, Konrad stated there were county-wide problems with the gravel road maintenance, not just the roads fronting the subject property.

Rachelle compared their home to two one-story modular homes located on 150th Avenue, which are summarized in the following table. (Exs. 10-13, and D).

Comparable	Gross Living Area (SF)	Assessed Land Value	Assessed Dwelling Value	Assessed Building Value	Total Assessed Value
Subject - 10055 150th Ave	1957	\$3,100	\$235,100		\$238,200
1 - 10294 150th Ave	1830	\$52,100	\$182,000		\$234,100
2 - 10059 150th Ave	1750	\$600	\$171,600	\$4,900	\$177,100

Neither comparable property has recently sold.

Rachelle testified Comparable 1 is located roughly one-half mile south of the subject property and is classified residential. Comparable 1 was built in 2017, has similar site size, gross living area, utility, and a full basement like the subject property. (Exs. 12 & D). Comparable 1's basement does not have a walk-out feature and the property also does not have a garage or any porches/patios. In Rachelle's opinion, minor differences between the properties do not explain a \$53,100 difference in the assessed dwelling values.

Comparable 2 is classified agricultural and is adjacent to the Henrys' property. The dwelling was built in 2005, has a full walk-out basement, and is similar in size and utility to the subject property. It has been assigned a slightly inferior quality of construction grade than the subject. (Ex. D). It does not have a garage but does feature a large steel utility building that is assessed as an agricultural building.¹ (Ex. 13). Its assessed dwelling value is \$63,500 less than the Henrys' property. Differences in age, grade, and a lack of a garage would contribute, in part, to differences in assessed dwelling values.

¹ Agricultural buildings are not assessed at their fair market value. Iowa Admin. Code R. 701-71.3(2). Therefore, a comparison of Comparable 2's agricultural building with the subject's garage would not be appropriate.

Rachelle also noted Comparable 2's site is assessed for significantly less than their site. We note the Henrys' site is roughly two-and-a-half times larger than Comparable 2's site. (Exs. 11 & 13). Further, the aerial photograph indicates little, if any, of the site can be used for agricultural production and therefore would likely be considered non-cropland, which may be subject to additional downward adjustments.² (Exs. 1). Tim Konrad testified for the Board of Review. He agreed that Comparable 2's assessed site value was too low and that its value would be corrected in the next assessment cycle.

Rachelle asserts the primary difference between these properties' improvements and theirs is the attached two-car garage, which she testified cost \$8,000 to build. She does not believe this explains the roughly \$53,000 to \$63,000 differences in assessed dwelling value. Rachelle acknowledged the \$8,000 cost was for materials only and did not include labor to construct. She also noted Sunrise construction quoted them \$19,000 to build the garage, which is much less than the \$53,000 to \$63,000 difference between their property and Comparables 1 and 2.

Rachelle noted her 1029 square foot attached garage has an assessed base value of \$28,611; or \$27.80 per square foot. (Ex. A, p. 3). In comparison, Comparable B's 1018 square foot garage has an assessed base value of \$21,214; or \$20.75 per square foot. (Ex. E). She believes the assessed value attached to their garage is what is driving her total assessed value to be higher than other similar properties.

Although the subject's property record card states the garage has a base cost of \$28,611, that is not the actual figure used in the valuation.³ The actual base cost used to value the subject's attached garage was \$21,352 (or \$20.75 per square foot), which

² Agricultural classified land is valued based on its productivity and earning capacity, which is determined using a soil survey. § 441.21(1)(e). Agricultural classified land that is designated as non-cropland is subject to additional adjustments. Iowa Admin. Code R. 701-71.3(1).

³ We can see the \$28,611 figure was not the actual figure used because that would result in a Building Sub Total of \$184,444; as opposed to the Building Sub Total of \$177,185 that was used to derive the Building Total Value. (Ex. A). Using a base cost of \$21,352 for the garage results in a Building Sub Total of \$177,185.

is consistent with the IOWA REAL PROPERTY APPRAISAL MANUAL.⁴ This is also consistent with the methodology used to arrive at the base garage cost for Comparable B.

The Board of Review submitted two residentially classified 2018 sales of one-story modular homes that it believes demonstrates the subject's assessment is equitable to other like property, which are summarized in the following table. (Ex. E).

Comparable	Gross Living Area (SF)	Basement Finish (SF)	Assessed Dwelling Value	Total Assessed Value	2018 Sale Price	AV/SP Ratio
Subject - 10055 150th Ave	1957	No Finish W/O	\$235,100	\$238,200		
A - 11432 Hwy S23	1637	300 Fin No W/O	\$209,900	\$272,200	\$279,900	0.97
B - 11436 Hwy S23	1902	1350 Fin W/O	\$263,300	\$325,600	\$330,000	0.99

Konrad pointed out the assessment-to-sales-price ratio of Comparables A and B is less than 1.00. A ratio less than 1.00 suggests that properties are assessed for less than their actual market value.

Konrad testified that while these properties are located further from the subject property than Henry's comparable properties, they are both located within the same township as the subject property. Konrad also noted that while the subject is located on a gravel road, it is very close to pavement and therefore the Assessor's Office considered it as being similar to properties on a paved highway.

Rachelle was critical of the Board of Review's position. She asserts that either their property is on a highway or it is not. Because they have to drive on gravel to get to their property she believes it is not comparable to properties with actual highway frontage. She was critical of the Board of Review's comparable sales because they are located several miles away from their home on a paved highway in an area with more expensive homes nearby and back to a pond, whereas their property is located on a poorly maintained gravel road and has views of substations. She also noted Comparables A and B have finished basements, a fireplace, and more bedrooms and bathrooms than their home. For all of these reasons, she does not believe these sales are comparable to her property.

⁴ According to the Iowa Real Property Appraisal Manual, a 1000-plus square foot attached garage is valued at \$20.75 per square foot. Manual p. 7-68. Applied to the subject, this results in a base cost for the garage of \$21,352.

The Board of Review submitted a flyer of the pricing of a modular home by Sunrise construction. (Ex. F). The flyer indicates a base cost of roughly \$110,000 for a one-story home like the subject, not including a basement or garage. The flyer includes options for upgrades and Rachelle testified they paid Sunrise homes \$141,000 for the dwelling.

The Board of Review also submitted a copy of the Henrys' 2017 mortgage for \$246,500. (Ex. G). Rachelle explained the mortgage loan was a construction loan and does not reflect the actual mortgage, which is under \$190,000.

Analysis & Conclusions of Law

The Henrys contend the subject property is inequitably assessed as provided under Iowa Code section 441.37(1)(a)(1).

To prove inequity, a taxpayer may show an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993).

The Henrys provided two properties they considered comparable in support of their claim.⁵ They focused on differences in assessed dwelling values between the subject and these comparables. However, there are differences between these properties and the subject that would contribute to the variance in assessed dwelling values. The Henrys have not identified, and we cannot find, any inconsistency in the assessment methodology applied to the subject and these comparables.

Alternatively, to prove inequity, a taxpayer may show the property is assessed higher proportionately than other like properties using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709, 711 (Iowa 1965). The *Maxwell* test provides inequity exists when, after considering the actual (2018) and assessed (2019) values of similar

⁵ The subject is classified agricultural. One of the comparables was classified residential. Typically, it is best to compare properties with the same assessment classification due to differences in valuation requirements. For instance, Iowa law specifies agricultural land and buildings are not assessed at their market value. § 441.21(1)(e); Iowa Admin. Code R. 701-71.3(2). The differing classifications make an equity comparison difficult; particularly when Iowa case law suggests that an equity comparison should focus on total values. *White v. Bd. of Review of Polk Cnty.*, 244 N.W.2d 765, 769 (Iowa 1976); *Deere Mfg. Co. v. Zeiner*, 78 N.W.2d 527, 531 (Iowa 1956).

properties, the subject property is assessed at a higher proportion of its actual value. *Id.* This is commonly done through an assessment/sales ratio analysis comparing prior year sales and current year assessments of the subject property and comparable properties. It is insufficient to simply compare the subject property's assessed value to the assessments of other properties.

The Henrys submitted two properties for comparison but neither has recently sold and a *Maxwell* ratio analysis cannot be developed. The Board of Review submitted two 2018 sales of modular one-story properties for comparison. The assessment/sales price ratios for these properties demonstrate they are assessed at or slightly below actual value.

Ultimately, the *Maxwell* analysis cannot be completed as an assessment/sale price ratio also needs to be developed for the subject property. The subject property did not recently sell, nor did the Henrys offer evidence of its January 1, 2019 market value. A ratio for similar properties, as well as the actual value of the subject property, is required in order to determine if the subject property is assessed at a higher proportion of its actual value.

Lastly, although the Henrys identified other factors they feel affect their property's value, such as the gravel road, the electrical substation, junk cars, etc. They offered no evidence showing what impact those issues had on the subject's value. Moreover, those issues are more pertinent to an over assessment claim under section 441.37(1)(a)(2).

Viewing the record as a whole, we find the Henrys failed to prove the subject property's assessed value is inequitable as compared with the assessments of other like properties.

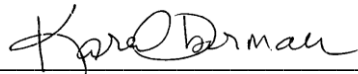
Order

PAAB HEREBY AFFIRMS the Warren County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2019).

Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

Any judicial action challenging this Order shall be filed in the district court where the property is located within 30 days of the date of this Order and comply with the requirements of Iowa Code section 441.37B and Chapter 17A (2019).



Karen Oberman, Board Member



Elizabeth Goodman, Board Member



Dennis Loll, Board Member

Copies to:

Rachelle Henry by eFile

Warren County Board of Review by eFile